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A California State Agency

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Via email: eircomments@sacog.org

Dear Ms. Lizon:

Thank you for the opportunity to comment on the Sacramento Area Council of Governments' (SACOG) Notice of Preparation (NOP) of a programmatic environmental impact report for the 2016 Metropolitan Transportation Plan/Sustainable Communities Strategy for 2036 (MTP/SCS) Update. We welcome the opportunity to provide input regarding how to ensure the consistency of the MTP/SCS with the Delta Plan, as required by the Delta Reform Act (Water Code Section 85212).

The Delta Reform Act establishes specific criteria and categories for exempting actions from the Council's regulatory authority. One of these exclusions is for actions within the secondary zone of the Delta that a metropolitan planning organization determines are consistent with its SCS. Such proposed actions are not "covered actions" regulated by the Council (Water Code Section 85057.5(b)(4)). Therefore, as we have discussed, coordinating our plans' consistency is particularly important to achieving our common goals.

Council staff enjoyed a collaborative relationship with SACOG staff during the scoping and review periods for SACOG's first MTP/SCS and its environmental documents, which were approved in 2012, while the Delta Plan was still in draft form. The 2016 MTP/SCS Update provides an opportunity to further improve consistency now that the Delta Plan and its regulations are effective. We look forward to continued coordination between our agencies to further our related efforts.

SCS Consistency with the Delta Plan

Based on the Delta Plan, our review of the NOP for the MTP/SCS identified the following areas to consider in order to ensure consistency:

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

- **Urban boundaries.** The urban boundaries identified in the MTP/SCS should be consistent with the Delta Plan. The boundaries are described in **Delta Plan Policy DP P1** (23 CCR Section 5010), with reference to maps in Appendix 7 of Delta Plan regulations. These boundaries are intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk. DP P1 is based on city boundaries and spheres of influence effective as of May 16, 2013, the date of the Delta Plan's adoption.¹
- **Habitat restoration areas.** Land should be set aside for future habitat restoration needs, including the needs of the South Sacramento Habitat Conservation Plan, consistent with the priority habitat restoration areas identified in the Delta Plan. **Delta Plan Policy ER P3** (23 CCR Section 5007) calls for protecting opportunities to restore habitat in these areas, which are depicted in Appendix 5 of the Delta Plan regulations. At the same time, **Delta Plan Policy DP P2** (23 CCR Section 5011) calls for respecting local land use when siting water or flood facilities or habitat restoration. For this reason, the priority habitat restoration areas are located in areas designated for agriculture, open space or natural preserve in county general plans, and not in areas currently designated for urban uses.
- **Flood risk reduction.** Land use planning for the MTP/SCS should reduce flood risk. The Delta Plan contains three policies that are most relevant to SACOG's consideration of this issue: **Policy RR P2** (23 CCR Section 5013) requires flood protection for residential development in rural areas, **Policy RR P3** (23 CCR Section 5014) restricts encroachment in floodways, and **Policy RR P4** (23 CCR Section 5014) restricts encroachments in floodplains, including the Cosumnes River-Mokelumne River Confluence. In addition, the Delta Plan contains a recommendation (RR R7) encouraging the Central Valley Flood Protection Board to evaluate designating additional floodways. Flood risk reduction should be included as a factor when evaluating various land use scenarios.
- **General.** On a more general note, Council staff offers these additional comments regarding ways in which the MTP/SCS can help to achieve the Delta Plan's coequal goals of water supply reliability and ecosystem restoration, while protecting and enhancing the Delta as an evolving place.
 - **Water supply reliability.** The MTP/SCS should address the Delta Plan's goal of improving water supply reliability. The Delta Plan's legally binding policies and most of its recommendations related to water supply reliability are directed primarily at water suppliers and state and federal agencies. However, there is strong evidence that compact growth reduces per capita water demand, as well

¹ Council staff has identified and City of Sacramento staff has confirmed an error in the Delta Plan map of land use designations in the City of Sacramento. The Delta Plan map is based on 2008 data, but it should have been based on the General Plan map that was adopted in 2009, the last update that occurred before the Delta Plan was adopted in 2013. Council staff intends to recommend correcting this error as part of the next amendment of the Delta Plan and its regulations.

as water supply infrastructure costs,² and we therefore request that these environmental and economic benefits be included as factors in the evaluation of land use scenarios. In addition, we note that water use efficiency is one of several criteria required for "transit priority projects" as defined by SB 375 to obtain an exemption from the requirements of the California Environmental Quality Act (CEQA).³

- **Protecting the Delta as Place.** The MTP/SCS should contribute to protecting and enhancing the unique cultural, recreational, natural resource, and agricultural values of the Delta. Several recommendations in the Delta Plan provide guidance in this area. **DP R5** recommends providing adequate infrastructure to meet development needs, consistent with sustainable communities strategies and other relevant plans. **DP R8** and **DP R9** call for promoting value-added crop processing and agritourism, respectively. **DP R17** calls for enhancing opportunities for visitor-serving businesses.

Comments on the NOP

In addition to ensuring consistency of the MTP/SCS with the Delta Plan, we recommend that SACOG staff discuss or include the following matters in the EIR:

- **Regulatory Setting.** The EIR should acknowledge the Delta Plan regulations and recommendations in the regulatory setting of all appropriate sections, such as land use and planning, biological resources, and agricultural resources sections.
- **Inconsistencies with the Delta Plan.** The EIR should discuss any inconsistencies between the proposed project and the Delta Plan, as required by Section 15125(d) of the CEQA Guidelines. Note, too, that the CEQA Guidelines' Appendix G states that a project that is inconsistent with any applicable land use plan, policy, or regulation may result in a finding of significant impact on biological resources.
- **Agricultural Resources:** The EIR should include an analysis of the potential loss of agricultural land in the Delta caused by urban development covered by the MTP/SCS. **Delta Plan Policy DP P1** (23 CCR Section 5010) states that new residential, commercial, or industrial development is permitted outside the urban boundaries only if it is consistent with the land use designated in the relevant county general plan. It is intended to strengthen existing Delta communities while protecting farmland and open space, providing land for ecosystem restoration needs, and reducing flood risk. Please discuss any potential impacts to agricultural resources.

² U.S. Environmental Protection Agency. 2006. *Growing Toward More Efficient Water Use: Linking Development, Infrastructure, and Drinking Water Policies*. EPA 230-R-06-001. Downloaded on March 5, 2013 from http://www.epa.gov/smartgrowth/pdf/growing_water_use_efficiency.pdf.

³ SB 375 provides a total CEQA exemption for transit priority projects that comply with a long list of criteria, including having buildings and landscaping that are 25% more water efficient than average for the community.

We also recommend adding the following mitigation measures, which are drawn from the Delta Plan's Final Programmatic EIR, to ensure that farmlands are protected to the greatest extent possible:

- "Design proposed projects to minimize, to the greatest extent feasible, the loss of the highest valued agricultural land.
 - Redesign project features to minimize fragmenting or isolating farmland. Where a project involves acquiring land or easements, ensure that the remaining non-project area is of a size sufficient to allow viable farming operations. The project proponents shall be responsible for acquiring easements, making lot line adjustments, and merging affected land parcels into units suitable for continued commercial agricultural management.
 - Reconnect utilities or infrastructure that serve agricultural uses if these are disturbed by project construction. If a project temporarily or permanently cuts off roadway access or removes utility lines, irrigation features, or other infrastructure, the project proponents shall be responsible for restoring access as necessary to ensure that economically viable farming operations are not interrupted.
 - Manage project operations to minimize the introduction of invasive species or weeds that may affect agricultural production on adjacent agricultural land.
 - Design proposed projects to minimize, to the greatest extent feasible, conflicts and inconsistencies with land protected by agricultural zoning or a Williamson Act contract and the terms of the applicable zoning/contract."
- **Biological Resources:** The NOP states that the EIR will identify any potential impacts of the SSHCP on biological resources. **Delta Plan Policy ER P2** (23 CCR Section 5006) states that habitat restoration must be carried out consistent with Appendix 3 of the Delta Plan regulations, which is an excerpt from the California Department of Fish and Wildlife's Draft Ecosystem Restoration Program *Conservation Strategy*, which calls for restoring habitats at appropriate elevations. Further guidance is provided by Delta Plan Recommendation **ER R2**, which states, for the Cosumnes-Mokelumne Confluence, "Allow these unregulated and minimally regulated rivers to flood over their banks during winter and spring frequently and regularly to create seasonal floodplains and riparian habitats that grade into tidal marsh and shallow subtidal habitats." **ER P3**, mentioned above, calls for protecting opportunities to restore habitat in these areas. More specifically, the policy states that "significant adverse impacts to the opportunity to restore as described in section 5006 must be avoided or mitigated." Potential mitigation measures could include elevating facilities so that water can flow underneath to allow for future restoration of habitats dependent on tides or periodic flooding, or locating facilities at the edge of the restoration area, rather than in the middle, to improve opportunities for restoring habitat connectivity. The mitigation shall be determined, in consultation with the California Department of Fish and Wildlife, considering the size of the project area and the type and value of habitat that could be restored in that area.

Kacey Lizon
Sacramento Area Council of Governments
July 25, 2014
Page 5

We look forward to working with you and your staff to ensure consistency between the MTP/SCS and the Delta Plan, so that the two plans are complementary and serve to protect the Delta while promoting sustainable growth and economic vitality in the broader region.

If you have any questions, please contact Jessica Davenport at jdavenport@deltacouncil.ca.gov or (916) 445-2168.

Sincerely,



Cindy Messer
Deputy Executive Officer, Delta Plan

cc: Erik Vink, Delta Protection Commission
Carl Wilcox, Department of Fish and Wildlife
Len Marino, Central Valley Flood Protection Board

